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Note verbale dated 27 October 2004 from the Permanent Mission of the Czech Republic to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Czech Republic to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1540 (2004), and, with reference to operative paragraph 4 of the resolution, has the honour to transmit herewith the Czech Republic national report (see annex).

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Annex to the note verbale dated 27 October 2004 from the Permanent Mission of the Czech Republic to the United Nations addressed to the Chairman of the Committee

THE CZECH REPUBLIC NATIONAL REPORT ON IMPLEMENTATION OF UNSCR 1540

Introduction

1) The Czech Republic supports United Nations Security Council Resolution 1540 (2004) and appreciates its contribution to the process of addressing urgent problems in the field of WMD non-proliferation and the fight against terrorism. The Czech Republic is fully committed to the implementation of this resolution.

2) The Czech Republic regards as useful and effective the general orientation of the resolution towards United Nations member countries, aimed to make them adopt transparent measures in the area of WMD non-proliferation. The wording of its individual provisions takes full account of the international obligations of member countries and basically reflects the requirements arising from existing international treaties. In the area of nuclear non-proliferation, the international obligations arise from the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and the related Convention on the Physical Protection of Nuclear Material (CPPNM), from the Additional Protocol, as well as from membership of the international control regimes reinforcing the Treaty on the Non-Proliferation of Nuclear Weapons, including the Nuclear Suppliers Group (NSG) and Zangger Committee (ZC). In the area of chemical and biological non-proliferation, international obligations arise mainly from the Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (CWC) and the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (BTWC). Therefore the Czech Republic regards the provisions of the resolution as a challenge especially to those countries that have not yet acceded to the above-mentioned international treaties, as well as countries that are formally parties to these treaties, but have yet to fully implement the international obligations arising from them in their national legislation.

3) The Czech Republic regards increased fight against WMD proliferation, together with arms control and disarmament efforts, as a significant tool in the global fight against terrorism, especially in eliminating attempts to illegally obtain WMD and their means of delivery. Measures against WMD proliferation are in accordance with the long-term objectives of the Czech Republic, a country which is a party to all major international treaties on WMD non-proliferation and disarmament and a full-fledged member of all existing international control regimes, has at its disposal all necessary legislative tools for full implementation of its international obligations and measures arising from the provisions of United Nations Security Council Resolution 1540 (2004), and supports all international activities preventing WMD proliferation.

4) In order to reinforce the fight against WMD proliferation and in accordance with the European Union Strategy against Proliferation of Weapons of Mass Destruction, the Czech Republic advocates the universality and strengthening of the following treaties/conventions: Treaty on the Non-Proliferation of Nuclear Weapons (NPT); Safeguards Agreement with the International Atomic Energy Agency; Convention on the Prohibition of Chemical Weapons (CWC) and the Convention on the Prohibition of Biological and Toxin Weapons (BTWC); The Hague Code of Conduct against Ballistic Missile Proliferation (HCOC), and the early entry into force of the Comprehensive Nuclear-Test-Ban Treaty (CTBT).

5) The Czech Republic regards these treaties as the cornerstone of the international effort in the field of WMD non-proliferation and disarmament, contributing to the enhancement of international confidence, stability, security and peace, including the fight against terrorism. These treaties can be reinforced, inter alia, by setting up effective control mechanisms, therefore the Czech Republic promotes the principle of verification, including challenge inspections. Closely linked to these main principles is the requirement of consistent national implementation of treaty obligations and full transparency as the necessary precondition for effective implementation of the treaties.

6) In the field of WMD non-proliferation, the Czech Republic is a long-standing advocate of the significant role played by international control regimes. In the field of nuclear non-proliferation, these include the Zangger Committee (ZC) and the Nuclear Suppliers Group (NSG); in the field of biological and chemical non-proliferation, the Australia Group (AG); in the field of means of delivery, the Missile Technology Control Regime (MTCR) and The Hague Code of Conduct against Ballistic Missile Proliferation (HCOC); and in the field of conventional weapons and dual-use items, the Wassenaar Arrangement (WA). Strengthened control of exports, including dual-use goods, together with measures against smuggling and illicit trade, are regarded by the Czech Republic as vital preventive measures in the fight against WMD proliferation and against terrorism.

7) Informal initiatives of the international community intended to reinforce the fight against WMD proliferation and terrorism are also in accordance with the Czech Republic's foreign policy priorities and security interests:

a) Proliferation Security Initiative (PSI) is a response to the growing challenge posed by the proliferation of WMD, their means of delivery and dual-use materials worldwide. The Czech Republic joined the PSI in April 2004 and expects that widespread international application of the Interdiction Principles, together with exchange of the relevant intelligence, will greatly assist in impeding WMD or dual-use goods procurement attempts;

b) In 2004 the Czech Republic also joined the G8 Global Partnership Against the Spread of Weapons and Materials of Mass Destruction and takes part in the projects in accordance with its national interests and financial capacity. In 2003 the Czech Republic for the first time paid a donor's contribution for chemical weapons destruction in the Russian Federation and intends to provide the same contribution in 2004;

c) The Czech Republic fully supports the Global Threat Reduction Initiative (GTRI) launched in May 2004 to reduce the risk of malicious use of nuclear and radioactive materials. Within the framework of this initiative the Czech Republic, in consultation with the International Atomic Energy Agency, is considering the possibilities for repatriation of the nuclear fuel currently held by the Czech Nuclear Research Institute.

8) As the Czech Republic is a member of the European Union, reference is made to the EU Common Report that will be transmitted to the UNSC 1540 Special Committee under a separate cover. This EU Report covers areas of EU and Community competence and activities in relation to UNSC resolution 1540 (2004) and should be read in conjunction with this national report.

A) Operative Paragraph 1

Decides that all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery

The Czech Republic does not provide any form of support to non-state actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery. Any such support is prohibited under the Czech Republic's legislation. The relevant Czech legislation is described below.

B) Operative Paragraph 2

Decides also that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them

I. Implementation of obligations and measures in the field of nuclear non-proliferation control

1. International treaties

As a successor state to the Czech and Slovak Federal Republic, the Czech Republic is a party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), adopted by the United Nations General Assembly on 12 June 1968. The former Czechoslovakia signed the NPT in Moscow, Washington and London on 1 July 1968 and deposited its instruments of ratification with the NPT depositaries, the government of the former USSR, the government of the United States and the government of the United Kingdom, on 22 July 1969. The NPT entered into force on 5 March 1970.

In conformity with the obligation arising from Article III, paragraph 1 of the NPT, the former Czechoslovakia signed, as early as 1972, an Agreement between Czechoslovakia and the International Atomic Energy Agency for the Application of Safeguards in Connection with the

Treaty on the Non-Proliferation of Nuclear Weapons. This agreement has since been superseded by a new Agreement between the Czech Republic and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons, signed in Vienna on 18 September 1996. The Agreement was ratified by the President of the Czech Republic on 10 July 1997 and entered into force pursuant to its Article 25 on 11 September 1997. Full text of the Agreement has been published by the International Atomic Energy Agency (IAEA) in document INFCIRC/541.

As a successor state to the Czech and Slovak Federal Republic, the Czech Republic is also a party to the Convention on the Physical Protection of Nuclear Material, related to the NPT. The former Czechoslovakia signed the Convention in Vienna on 14 September 1981 and deposited its instrument of ratification with the depositary, IAEA Director General, on 23 April 1982. The Convention entered into force pursuant to its Article 19, paragraph 1 on 8 February 1987.

Since 1992 the Czech Republic, as a successor state to the Czech and Slovak Federal Republic, has been a member of two international control regimes reinforcing the NPT, i.e. the Zangger Committee and the Nuclear Suppliers Group, controlling the exports of selected items (ZC Trigger List Items and NSG Trigger List Items) and nuclear-related dual-use items (NSG Nuclear Related Dual-Use Items List) in accordance with the requirements of Article III, paragraph 2 of the NPT.

At its special session on 15 May 1997 the IAEA Board of Governors approved the Model Protocol Additional to Safeguards Agreements, considerably broadening and deepening the powers of the IAEA. The Agency's original power to carry out control of nuclear materials is broadened to include the control of existing and planned nuclear programmes and the control of materials, equipment and technologies designed and manufactured for use in the nuclear field, including exports and imports of these items. The list of controlled items is basically identical with the NSG Trigger List. The Czech Republic signed the Protocol Additional to the Agreement between the Czech Republic and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons in Vienna on 28 September 1999. The Additional Protocol was ratified by the President of the Czech Republic on 21 June 2002 and entered into force pursuant to its Article 17 on 1 July 2002.

2. Legislative measures

The Czech Republic's international obligations arising from the Treaty on the Non-Proliferation of Nuclear Weapons, from the Agreement between the Czech Republic and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons and from membership of the international control regimes reinforcing the Treaty on the Non-Proliferation of Nuclear Weapons were implemented in the national legislation by Act No. 18/1997 (as amended) to regulate peaceful utilization of nuclear energy and ionising radiation (Atomic Act) and to amend related acts. The Atomic Act superseded the previous

legislation that was introduced in this sphere already in 1977. The Atomic Act covers also the Czech Republic's international obligations arising from the Convention on the Physical Protection of Nuclear Material that, until 1997, were governed by legislation adopted in 1989. The amendment to the Atomic Act introduced by Act No. 13/2002 (in force from 1 July 2002) takes full account also of the Czech Republic's international obligations arising from the Protocol Additional to the Agreement between the Czech Republic and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons.

The Atomic Act, as amended by Act No. 13/2002, designates the State Office for Nuclear Safety as the Czech Republic's authority responsible for control of nuclear non-proliferation, government supervision of nuclear materials, selected items and nuclear-related dual-use items, and for government supervision of the physical protection of nuclear materials and nuclear facilities. It clearly defines the activities that are subject to licences issued by the State Office for Nuclear Safety. These activities include, in particular, the handling of nuclear materials, exports, imports and transit of nuclear materials and selected items, as well as exports and imports of nuclear-related dual-use items. According to the Atomic Act, the State Office for Nuclear Safety is also the Czech Republic's central authority responsible for control of and accounting for nuclear materials under the Czech Republic's jurisdiction, keeping records on imported and exported selected items and nuclear-related dual-use items, and for control of the handling of these items. It is also responsible for approving and controlling the physical protection of nuclear materials and nuclear facilities, including physical protection of nuclear materials in transport.

Regulations implementing the Atomic Act (as amended by Act No. 13/2002) include Regulation No. 145/1997 on accounting for and control of nuclear materials and on their detailed specification as amended by Regulation No. 316/2002, Regulation No. 179/2002 introducing a list of selected items and nuclear-related dual-use items; as well as Regulation No. 144/1997 on the physical protection of nuclear materials and nuclear facilities and their classification.

The Atomic Act and its implementing regulations specify in detail the rights and obligations of natural persons and legal entities in handling nuclear materials or carrying out activities licensed by the State Office for Nuclear Safety, as well as the documents that must accompany licence applications and the requirements to be met by licence holders.

3. Control activity

In accordance with the requirements of the Agreement between the Czech Republic and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons, the Protocol Additional to the Safeguards Agreement and the Atomic Act (Act No. 18/1997 as amended by Act No. 13/2002), the State Office for Nuclear Safety manages the so-called National System of Nuclear Materials Accountancy and Control (National System), keeps records on imported and exported nuclear

items and on licence holders engaging in activities that are subject to the licensing procedure of the State Office for Nuclear Safety. Data from the National System database are transmitted to the IAEA and, since 1 May 2004, also to the EURATOM Safeguards Office (ESO) on a monthly basis. Data on selected import and export items are transmitted to the IAEA on a quarterly basis and, since 1 May 2004, a copy is provided to the ESO. Data on activities concerning the nuclear fuel cycle are transmitted to the IAEA on an annual basis and a copy is provided to the ESO. Pursuant to Section 39 of the Atomic Act, inspectors of the State Office for Nuclear Safety perform, at regular intervals, verification of nuclear materials and data entered in the National System at facilities of about 314 licence holders, check the accounting for and handling of nuclear materials and imported nuclear items, observance of the law and compliance with the conditions for exports of nuclear materials and nuclear items, including activities related to the nuclear fuel cycle. The verification of nuclear materials, National System data and activities related to the nuclear fuel cycle at licensed facilities are also subject to regular checks by IAEA inspectors and, since 1 May 2004, also by ESO inspectors. In addition, inspectors of the State Office for Nuclear Safety regularly inspect the measures taken for the physical protection of nuclear materials and nuclear facilities, including physical protection of nuclear materials in transport.

Unauthorized handling of nuclear materials, unlicensed exports of selected items or nuclear-related dual-use items, non-compliance with the requirements of the Atomic Act or with the licensing conditions set by the State Office for Nuclear Safety, is subject to remedial measures and/or sanctions under Sections 40 and/or 41 of the Atomic Act.

4. Conclusions and main tasks

The Atomic Act (Act No. 18/1997 as amended by Act No. 13/2002) and its implementing regulations govern the utilization of nuclear materials, selected items and nuclear-related dual-use items, and set the conditions for their utilization, including physical protection requirements, in accordance with the requirements of international nuclear non-proliferation treaties and the international control regimes reinforcing the Treaty on the Non-Proliferation of Nuclear Weapons, thus fully meeting also the requirements of United Nations Security Council resolution 1540 (2004).

The results of the inspections by the State Office for Nuclear Safety, the IAEA and ESO, fully confirm the Czech Republic's compliance with its international obligations regarding nuclear non-proliferation. A proof of the high standards maintained in the Czech Republic's safeguards and control system is, inter alia, the fact that IAEA safeguards inspectors are regularly trained at Czech nuclear facilities. Within the framework of cooperation with the IAEA, the Czech Republic is also an active participant in the IAEA Safeguards Support Programme, which has so far been joined by only ten of the Agency's 180 member states.

A convincing proof of the high standard of physical protection of nuclear materials and nuclear facilities in the Czech Republic are the results of the IAEA´s two IPPAS (International Physical

Protection Advisory Service) missions to nuclear facilities in the Czech Republic, as well as the regular regional training courses on physical protection of nuclear materials and nuclear facilities, organized in the Czech Republic by the IAEA in cooperation with the State Office for Nuclear Safety and the United States Department of Energy (DOE) for Central and East European countries and the Newly Independent States. Six training courses have taken place so far.

In order to minimize even further possible terrorist threats to nuclear materials and nuclear facilities in the Czech Republic and to enhance their physical protection, the State Office for Nuclear Safety started to work in 2004 on an amendment to Regulation No. 144/1997 on physical protection of nuclear materials and nuclear facilities and their classification. The draft should be ready approximately by June 2005.

II. Measures related to the prohibition of chemical weapons

1. International treaties

The Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (CWC) was signed by the Czech Republic on 14 January 1993 and entered into force on 29 April 1997. On 6 March 1996 the Czech Republic deposited its instruments of ratification with the depositary in New York and, as the 48th State Party to the CWC, became a Member State of the Organisation for the Prohibition of Chemical Weapons (OPCW).

2. Legislative measures

The obligations arising from the CWC, which correspond to the measures concerning chemical weapons required by United Nations Security Council resolution 1540 (2004), have been implemented in the Czech legislation by new Act No. 19/1997 to regulate certain measures concerning the prohibition of chemical weapons. The Act regulates the rights and obligations of natural persons and legal entities related to the chemical weapons ban and to the handling of toxic chemicals and their precursors that could be used in violating the chemical weapons ban. The amounts and types of the substances, criteria for the classification of toxic chemicals, conditions for the granting of licences to handle highly dangerous chemicals (Schedule I chemicals), details on record-keeping, as well as criteria applicable to the reporting duty are provided in implementing Regulation No. 50/1997.

In 2000, Act No. 19/1997 was amended by Act No. 249/2000, by which the competences related to state administration and government control concerning the chemical weapons ban were transferred from the Ministry of Industry and Trade of the Czech Republic to the State Office for Nuclear Safety. At the same time the State Office for Nuclear Safety became the coordinating body responsible for the implementation of the CWC in the Czech Republic.

Another amendment to Act No. 19/1997 was introduced by Act No. 356/2003 concerning chemical substances and chemical compounds, requiring manufacturers and importers to classify and register scheduled chemicals and to provide safety data sheets.

The latest changes to Act No. 19/1997 resulted from the adoption of the Act to regulate the Customs Administration of the Czech Republic (Act No. 186/2004). They define the duties of transporters delivering scheduled chemicals from/to the Czech Republic in the context of supervision and control activities performed by the customs authority.

3. Control measures

The Czech Republic meets all obligations arising from the CWC. It operates an intensive system of controls at facilities handling scheduled chemicals and at all times actively cooperates with the international inspections performed by the OPCW.

Any handling of highly dangerous substances is subject to a licence granted by the State Office for Nuclear Safety. Licences to export dangerous chemicals (Schedule 2) and less dangerous chemicals (Schedule 3) are granted by the Licensing Authority at the Ministry of Industry and Trade of the Czech Republic. By virtue of Act No. 19/1997, entities that handle scheduled chemicals in amounts larger than those specified in Regulation No. 50/1997 must report to the State Office for Nuclear Safety their data on such handling anticipated for the following year, as well as their real data for the past calendar year. The reporting duty applies also to the installation of new equipment for the manufacture, processing or consumption of scheduled chemicals. The State Office for Nuclear Safety keeps register of such entities and, in accordance with the CWC, transmits to the OPCW annual declarations on the relevant chemicals and facilities.

Non-compliance with the obligations arising from Act No. 19/1997 is subject to fines (Section 32) and to criminal sanctions under the Criminal Code (Section 185a).

4. Conclusions and main tasks

The Czech Republic has never possessed chemical weapons or facilities for their production. With regard to the country's developed chemical industry, the main task of the State Office for Nuclear Safety is to focus on the control of the handling of scheduled chemicals that might be used to produce chemical weapons. The Czech Republic's export/import control regime has been changed in the context of the country's accession to the EU, and Czech legislation is being aligned with the EU acquis. Changes relevant to the chemical weapons ban include, inter alia, the ongoing work on an amendment to Act No. 19/1997 that should describe in more specific terms the procedures for licensing and control of imports and exports of scheduled chemicals in the EU and in CWC States Parties. The amendment will reflect the past experience with the implementation of the CWC and introduce into law the measures that have in the meantime been adopted by the OPCW Conferences of the States Parties.

III. Measures related to the prohibition of biological weapons

1. International treaties

The Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (BTWC) was signed by the former Czechoslovakia in 1972 and ratified on 30 April 1973. The BTWC entered into force upon its ratification by twenty-two countries on 26 March 1975.

In Article IV of the BTWC each State Party undertakes, in accordance with its constitutional processes, to take any necessary measures to prohibit and prevent the development, production, stockpiling, acquisition or retention of agents, toxins, weapons, equipment and means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict, except for those that are designed for prophylactic, protective or other peaceful purposes.

Unlike the CWC, the BTWC does not enclose any international control mechanism. There is no international organization to verify the compliance with the obligations arising from the BTWC.

So far, compliance of the obligations arising from the BTWC has only been reviewed at the Review Conferences of the States Parties. One of the most important points on their agenda has been the preparation of a binding Verification Protocol to the BTWC. Although the protocol is yet to be approved, it is generally agreed that the States Parties should finalize their national legislation in its spirit as soon as possible.

Another confidence-building measure adopted by the States Parties at their Review Conferences are voluntary declarations, presented to the United Nations by the States Parties on an annual basis.

In the Czech Republic, Government Resolution No. 306 of 29 March 2000 instructed the State Office for Nuclear Safety to develop a legislative framework and to take steps to set up a future national authority responsible for compliance with the obligations arising from the BTWC.

2. Legislative measures

The Czech Republic's primary legislation relevant to the ban on bacteriological (biological) and toxin weapons is Act No. 281/2002 to regulate certain measures related to the ban on bacteriological (biological) and toxin weapons and to amend the Trades Licensing Act. It is based on experience with the implementation of similar conventions concerning nuclear and chemical non-proliferation (NPT, CTBT, CWC). The Act conforms to the spirit of Article IV of the BTWC, and also contributes to the implementation of the Czech Republic's Security Strategy. It took effect on 28 June 2002.

The main elements of the Act include the ban on any handling of bacteriological (biological) and toxin weapons and equipment used for their production, the definition of the conditions for handling listed highly dangerous biological agents and toxins, the rule that any handling of such agents and toxins is subject to a licence granted by the State Office for Nuclear Safety, definition of obligations of exporters and importers of highly dangerous and dangerous biological agents and toxins, the duty of all licence holders to keep records and present the required reports to the State Office for Nuclear Safety, as well as the powers of the State Office for Nuclear Safety in the field of state administration, government supervision, accounting for and control of the handling of highly dangerous and dangerous biological agents and toxins that could be used for malicious purposes.

In drafting the Act, due account was taken of EU regulations concerning free movement of persons, goods, etc., especially EU regulations on the exports of dual-use goods and technologies (Council Regulation (EC) No. 1334/2000 setting up a Community regime for the control of exports of dual-use items and technology) and the relevant articles of the Treaty establishing European Community (Articles 28-30 and Articles 12, 39, 43, 48).

In the context of the Czech Republic's accession to the EU, Act No. 186/2004 changed some laws, including Act No. 281/2002, in connection with the introduction of the Act concerning the Customs Administration of the Czech Republic. The amendment creates a national regime for controlling the transfers of the highly dangerous biological agents and toxins, as envisaged in the EU Council Regulation.

Act No. 281/2002 is implemented by Regulation No. 474/2002, introducing a list of highly dangerous biological agents and toxins, a list of dangerous biological agents and toxins and particulars on accounting for highly dangerous and dangerous biological agents and toxins.

3. Control activity

Pursuant to Act No. 281/2002, inspectors of the State Office for Nuclear Safety systematically control the handling of highly dangerous and dangerous biological agents and toxins at facilities. Each facility is inspected roughly once in a year. Non-compliance with the obligations arising from the Act is subject to fines (Section 21) and criminal sanctions (Section 185a of the Criminal Code).

4. Conclusions and main tasks

The national legislation, including Act No. 281/2002 as amended and Regulation No. 474/2002, fully safeguards the compliance with the Czech Republic's obligations arising from the BTWC. In many cases, national legislation is stricter than the provisions of the BTWC.

These standards were adopted and brought into force before the introduction of the international Verification Protocol, when the government had yet to clearly identify the

facilities and activities falling within the scope of the BTWC. In the light of practical national experience with the implementation of the Act and Regulation, control activities and the terrorist threat, it is now obvious that some of the provisions will have to be rephrased in more specific terms.

C) Operative Paragraph 3

Decides also that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this shall:

(a) Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport

(b) Develop and maintain appropriate physical protection measures

See above in paragraphs I.2,3; II.2,3; III.2,3

(c) Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law

Border Controls and Law Enforcement

In the context of the fight against WMD proliferation, the role of the Customs Administration of the Czech Republic is limited to control. The Customs Administration performs activities related to exports, imports and transit of goods to/from third countries according to Council Regulation (EEC) No. 2913/92 establishing the Community Customs Code (Customs Code) and Commission Regulation (EEC) No. 2454/93 of 2 July 1993 laying down provisions for the implementation of the Customs Code, performs control activities required by special legislation, including activities concerning the movement of goods in the customs territory of the Community.

Standard customs procedures concerning imports, exports and transit of goods to/from third countries and the related controls are carried out in accordance with the Customs Code. According to Articles 13 and 14 of the Customs Code, the customs authorities may, in accordance with the conditions laid down by the provisions in force, carry out all the controls they deem necessary to ensure that customs legislation is correctly applied. Any person directly or indirectly involved in the operations concerned for the purposes of trade in goods must provide the customs authorities with all the requisite documents and information, irrespective of the medium used, and all the requisite assistance at their request and by any time limit prescribed. According to Article 37 of the Customs Code, goods brought into the customs territory of the Community are, from the time of their entry, subject to customs supervision and may be subject to control by the customs authority. According to Article 38 of the Customs Code, a person bringing such goods into the customs territory of the Community must

convey them without delay, by the route specified by the customs authorities and in accordance with their instructions, to a designated place. The person is responsible for the carriage of such goods, including trans-shipment.

In the context of the control activity, a customs officer is authorized under Sections 30-43 of Act No. 13/1993, the Customs Act, as amended (Customs Act) to demand explanations from persons who are likely to contribute to clarification of facts important for detection of a crime, misdemeanour, customs offence or any other administrative offence related to a breach of the laws and regulations that fall within the competence of the customs authority. A customs officer is authorized to ask for identity documents and, in specified cases, to detain or restrain a person and to use technical devices to immobilize a vehicle. He is authorized to use investigation support means and technologies, such as cover documents or other means necessary for undercover work, or security and trapping technologies. A customs officer may seize weapons and prohibit access to certain places. He is entitled to use investigative means in terms of the Code of Criminal Procedure, to use coercive means, to stop persons and vehicles, to check baggage, vehicles, cargo and shipping documents, etc.

After the goods are released under the proposed customs procedure, the customs authorities are authorized under Section 127 of the Customs Act to conduct post-clearance checks in order to verify the correctness and completeness of the data given in the customs declaration, the authenticity of documents attached to it and the correctness of the assessed customs duties, taxes and fees. Post-clearance checks also verify the existence and authenticity of documents and the correctness of information concerning import and export operations or any subsequent transactions involving the goods identified in the customs declaration. Post-clearance checks take the form of inspection of business and accounting documents or any other documentation relevant to the data given in the customs declaration or to data on any transactions involving the goods.

According to Section 3 of Act No. 185/2004 concerning the Customs Administration of the Czech Republic, the customs authorities perform also activities related to the fight against organized crime in the field of illicit trade in military material, weapons, goods subject to international control regimes, narcotic and psychotropic substances, etc.

According to Section 325 of the Customs Act, in cases where the customs authorities exercise their powers under special regulations, unless provided otherwise by such regulations, they have the same rights and obligations as in the case of customs supervision. The same applies to the rights and obligations of any entity that is subject to such supervision.

Since its accession to the EU, the Czech Republic has no external borders, except for international airports. In accordance with Council Regulation (EEC) No. 3912/92 of 17 December 1992 on controls carried out in the Community in the field of road and inland waterway transport on means of transport registered or put into circulation in a non-Community country, and Council Regulation (EEC) No. 4060/89 of 21 December 1989 on the elimination of controls of Member States performed at the frontiers of Member States in the field of road and inland waterway transport, the checks that were performed at frontiers until 1 May 2004 are to be performed solely as part of normal control

procedures throughout the territory of a Member State. To this end, mobile surveillance units have been created to perform checks under the EU Customs Code, the Czech Customs Act and under special regulations throughout the territory of the Czech Republic.

(d) Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations

National Export Control System

The system of export controls was introduced in the Czech Republic in 1990 and has been continually improved to achieve higher standards of efficiency. At present the Czech Republic is a member of all international control regimes in this sphere and its export controls meet the standards common in developed countries. The scope and methods of control are the same as in other EU countries.

Control of exports of dual-use goods in the Czech Republic concentrates on the dual-use items included on the export control lists of the international control regimes. These lists cover systems, equipment and its components, testing equipment, control and production equipment, materials, software and technologies. Transfers of software and technologies abroad are considered exports regardless of the method used for the transfer (deliveries in tangible form or transmission by intangible means, such as e-mail, fax, etc.).

The control system is applied also to exports of goods other than those specified in the lists, if the intended use of such goods is in any respect associated with WMD or if the end-use country is subject to an arms embargo. A special case is the control of technical assistance (technical services) in all its forms, including training, sharing of experience or even oral consultations.

In deciding whether or not a licence should be granted, the competent authorities examine each case in the light of the Czech Republic's foreign policy, commercial and security interests. The licence is denied if the declared end use of the goods does not sufficiently guarantee that the goods will not be used in relation to WMD, missile systems capable of delivering WMD or for military purposes. End-use information and guarantees are required in all cases. They are verified through an administrative procedure using various, mostly public databases. Sensitive cases are verified in consultation with foreign authorities.

The primary legislation in this field is Council Regulation (EC) No. 1334/2000 of 22 June 2000 setting up a Community regime for the control of exports of dual-use items and technology, as amended, and Act No. 21/1997 concerning the control of exports and imports of goods and technologies that are subject to international control regimes, as amended by Act No. 204/2002.

This Act will be replaced by new legislation implementing the EU regime for the control of exports and imports of dual-use items and technology, accompanied by new implementing regulations. This draft legislation fully meets the requirements of the European Union concerning the legislation of its member countries. It is currently going through the legislative process in the Czech Parliament.

In accordance with the Council Regulation mentioned above, the controls cover also re-exports of dual-use goods. Control of transits and trans-shipments in the Czech Republic is carried out pursuant to the EU Customs Code and the Czech Customs Act.

Sanctions applicable in the case of breaches of the control regime in the Czech Republic are determined in Act No. 21/1997 as amended by Act No. 204/2002 (fine up to CZK 20 million or to five times the price of the goods, whichever of the two amounts is higher). The violator may also be liable for criminal sanctions (imprisonment for three to eight years, fine or forfeiture of property).

Practising of the export controls prescribed by the above regulations in the Czech Republic is the responsibility of the Ministry of Industry and Trade. The MIT is in charge of the licensing procedure and consults with the competent authorities in the Czech Republic. It cooperates with its counterparts in other countries and with international organizations or institutions on a bilateral as well as multilateral basis. Control of compliance with the rules of the international control regime applicable to dual-use goods and technologies is the responsibility of the customs authorities and the State Office for Nuclear Safety.

The Czech Republic's system of export controls based on Council Regulation No. 1334/2000 as amended and on Act No. 21/1997 as amended by Act No. 204/2002 is augmented by laws covering the country's obligations under international treaties and conventions on WMD non-proliferation. This legislation includes, as mentioned above, the following acts:

Act No. 18/1997 (Atomic Act) as amended covering the Czech Republic's obligations under the Treaty on the Non-Proliferation of Nuclear Weapons and the control regimes reinforcing the Treaty, Act No. 19/1997 as amended covering the Czech Republic's obligations under the Chemical Weapons Convention, and Act No. 281/2002 to regulate certain measures related to the ban on bacteriological (biological) and toxin weapons. Implementation of these acts is supervised by the State Office for Nuclear Safety. This body of export controls legislation is further reinforced by Act No. 38/1994 to regulate foreign trade in military material as amended, explicitly stating that nuclear, chemical and biological weapons must not be the subject of trade in military material (Section 4). In addition, the Criminal Code (Act No. 140/1961) explicitly provides that non-state entities, including natural persons, no matter whether they act on their own behalf or on behalf of a legal entity, must not develop, manufacture, export, import, hold, stockpile or otherwise handle weapons, means of combat or explosives, including radioactive materials, prohibited by law or by an international treaty, and must not design, build or use facilities designed for development, manufacture or storage of

such weapons, means of combat or explosives. Violations of this ban are punished by imprisonment for one to five years (Section 185a of the Criminal Code).

D) Operative Paragraph 6

Recognizes the utility in implementing this resolution of effective national control lists and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists

The Czech Republic is a strong supporter of effective multilateral export control regimes and an active member of the Nuclear Suppliers Group, Australia Group, Missile Technology Control Regime, Zangger Committee, and the Wassenaar Arrangement. Its national export control lists are regularly updated to reflect the changes made to the control lists of these regimes. Since its accession to the EU, the Czech Republic has applied the control list in Annex I to Council Regulation No. 1334/2000, which is also subject to updates.

E) Operative Paragraph 7

Recognizes that some States may require assistance in implementing the provisions of this resolution within their territories and invites States in a position to do so to offer assistance as appropriate in response to specific requests to the States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions

The Czech Republic is prepared to provide assistance as appropriate in response to specific requests to the States lacking the legal and regulatory infrastructure and implementation experience for fulfilling the provisions of Security Council resolution 1540 (2004).

F) Operative Paragraph 8

Calls upon all States:
(a) To promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons

See Introduction, paragraphs 3,4,5.

(b) To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties

See paragraphs I.2; II.2; III.2 above.

(c) To renew and fulfil their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of

pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes

The Czech Republic regards the International Atomic Energy Agency (IAEA) as the principal global forum for international cooperation in peaceful utilization of nuclear energy, in setting nuclear safety standards and supervising compliance with them, and in applying nuclear non-proliferation safeguards. The Czech Republic, a member of the IAEA Board of Governors in 2002-2004, has actively promoted the reinforcement of the IAEA role in the field of nuclear non-proliferation, i.e. strengthening of the Safeguards Agreements system. A proof of the high standards maintained in the Czech Republic's safeguards and control system is, inter alia, the fact that IAEA safeguards inspectors are regularly trained at Czech nuclear facilities. Within the framework of close cooperation with the IAEA, the Czech Republic is an active participant in the IAEA Safeguards Support Programme. The Czech Republic is also a donor to the IAEA Nuclear Security Fund, convinced that nuclear safety and security is a problem deserving special support and many-sided approach, with regard to the potential devastating impacts and global nature of nuclear terrorism. The Czech Republic continues to support the Convention on the Physical Protection of Nuclear Material (CPPNM) as a tool of effective prevention of nuclear terrorism.

The Czech Republic has taken an active part in the work of the Organization for the Prohibition of Chemical Weapons (OPCW) since its inception. A member of the Executive Council in 2003-2005 and chair of the Council in 2003-2004, it has promoted universality of the CWC and more efficient control of the destruction of chemical weapons. Working beyond what is required for compliance with the CWC, the Czech Republic has taken part in various OPCW bodies and expert groups, organized training courses on protection against chemical weapons and regional meetings of authorities responsible for the implementation of the CWC. The Czech Republic has also joined the group of donor countries actively contributing to the destruction of chemical weapons. Since the creation of the OPCW, the Czech Republic has been helping to increase the capacities of the OPCW Technical Secretariat and member states in the field of assistance and protection against chemical weapons and in developing regional cooperation between national authorities responsible for the implementation of the CWC.

The Czech Republic supports cooperation within the framework of the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (BTWC) at all levels. It attaches great importance especially to multilateral cooperation in the development of control and verification mechanisms within the BTWC framework. The Czech Republic is one of the few countries that already have a mechanism for controlling compliance with the BTWC incorporated in their national legislation. The Czech Republic actively contributes to all BTWC fora with the aim to activate the whole BTWC process.

(d) To develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws

The general public in the Czech Republic is informed about WMD non-proliferation efforts and the fight against terrorism through the media and through public information activities of the competent ministries, specialized agencies and non-governmental organizations. The Ministry of Industry and Trade provides information about the export control system, its principles and procedures, both in general terms and when dealing with individual applicants. Basic information, including the operative legislation, lists, forms, explanations and instructions, is available on its regularly updated website www.mpo.cz. To assist Czech companies, MIT has developed a model export internal audit programme. This audit package, including an introductory training course, was offered to Czech companies free of charge in 2004. A conference for company managers on topical questions of export control and on the export internal audit programme was held in May 2004 and training courses for the executive staff are planned for the second half of 2004.

G) Operative Paragraph 9

Calls upon all States to promote dialogue and cooperation on non-proliferation so as to address the threat posed by proliferation of nuclear, chemical, or biological weapons, and their means of delivery

The Czech Republic continues to promote dialogue and cooperation at non-proliferation and disarmament multilateral fora so as to address the threat posed by proliferation of nuclear, chemical, or biological weapons, and their means of delivery.

H) Operative Paragraph 10

Further to counter that threat, calls upon all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials

In 2004 the Czech Republic joined the Proliferation Security Initiative (PSI) and the G8 Global Partnership Against the Spread of Weapons and Materials of Mass Destruction. The Czech Republic also fully supports the Global Threat Reduction Initiative (GTRI). Within the framework of this initiative the Czech Republic, in consultation with the International Atomic Energy Agency, is considering the possibilities for repatriation of the nuclear fuel currently held by the Czech Nuclear Research Institute.